

FIRST REGULAR SESSION

HOUSE BILL NO. 1489

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VERNETTI.

2858H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 304.822, RSMo, and to enact in lieu thereof one new section relating to electronic communication devices, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 304.822, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.822, to read as follows:

304.822. 1. This section shall be known as the "Siddens Bening Hands Free Law".

2. As used in this section, the following terms shall mean:

(1) "Commercial motor vehicle", the same meaning as is ascribed to such term in section 302.700;

(2) "Electronic communication device", a portable device that is used to initiate, receive, store, or view communication, information, images, or data electronically.

(a) Such term shall include but not be limited to: cellular telephones; portable telephones; text-messaging devices; personal digital assistants; pagers; broadband personal communication devices; electronic devices with mobile data access; computers, including but not limited to tablets, laptops, notebook computers, and electronic or video game systems; devices capable of transmitting, retrieving, or displaying a video, movie, broadcast television image, or visual image; and any substantially similar device that is used to initiate or receive communication or store and review information, videos, images, or data.

(b) Such term shall not include: radios; citizens band radios; commercial two-way radio communication devices or their functional equivalent; subscription-based emergency communication devices; prescribed medical devices; amateur or ham radio devices; or global

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 positioning system receivers, security, navigation, communication, or remote diagnostics
18 systems permanently affixed to the vehicle;

19 (3) "Highway", the same meaning as is ascribed to such term in section 302.010;

20 (4) "Noncommercial motor vehicle", the same meaning as is ascribed to such term in
21 section 302.700;

22 (5) "Operating", the actual physical control of a vehicle;

23 (6) "Operator", a person who is in actual physical control;

24 (7) "School bus", the same meaning as is ascribed to such term in section 302.700;

25 (8) "Voice-operated or hands-free feature or function", a feature or function, whether
26 internally installed or externally attached or connected to an electronic communication
27 device, that allows a person to use an electronic communication device without the use of
28 either hand, except to activate, deactivate, or initiate the feature or function with a single
29 touch or single swipe.

30 3. Except as otherwise provided in this section, while operating a noncommercial
31 motor vehicle or commercial motor vehicle on any highway or property open to the public for
32 vehicular traffic in this state, no operator shall:

33 (1) Physically hold or support, with any part of his or her body, an electronic
34 communication device;

35 (2) Write, send, or read any text-based communication, including but not limited to a
36 text message, instant message, email, or social media interaction on an electronic
37 communication device. This subdivision shall not apply to operators of a noncommercial
38 motor vehicle using a voice-operated or hands-free feature or function that converts the
39 message to be sent as a message in a written form, provided that the operator does not divert
40 his or her attention from lawful operation of the vehicle;

41 (3) Make any communication on an electronic communication device, including a
42 phone call, voice message, or one-way voice communication; provided however, that this
43 prohibition shall not apply to use of a voice-operated or hands-free feature or function;

44 (4) Engage in any form of electronic data retrieval or electronic data communication
45 on an electronic communication device;

46 (5) Manually enter letters, numbers, or symbols into any website, search engine, or
47 application on an electronic communication device;

48 (6) Watch a video or movie on an electronic communication device, other than
49 watching data related to the navigation of the vehicle; or

50 (7) Record, post, send, or broadcast video, including a video conference, on an
51 electronic communication device, provided that this prohibition shall not apply to electronic
52 devices used for the sole purpose of continually monitoring operator behavior by recording or
53 broadcasting video within or outside the vehicle.

54 4. The operator of a school bus shall not use or operate an electronic communication
55 device while the school bus is in motion unless the device is being used in a similar manner as
56 a two-way radio to allow live communication between the operator and school officials or
57 public safety officials. The operator of a school bus shall not use or operate an electronic
58 communication device or a two-way radio while loading or unloading passengers.

59 5. This section shall not apply to:

60 (1) Law enforcement officers or operators of emergency vehicles, as such term is
61 defined in section 304.022, who are both using the electronic communication device and
62 operating the emergency vehicle in the performance of their official duties;

63 (2) Operators using an electronic communication device for the sole purpose of
64 reporting an emergency situation and continuing communication with emergency personnel
65 during the emergency situation;

66 (3) Operators of noncommercial motor vehicles using an electronic communication
67 device solely through a voice-operated or hands-free feature or function;

68 (4) Operators of commercial motor vehicles using a voice-operated or hands-free
69 feature or function, as long as the operator remains seated and is restrained by a seat belt as
70 required by law;

71 (5) Operators of commercial motor vehicles reading a message displayed on a
72 permanently installed communication device designed for a commercial motor vehicle with a
73 screen that does not exceed ten inches tall by ten inches wide in size;

74 (6) Operators using electronic communication devices while the vehicle is lawfully
75 stopped or parked;

76 (7) Commercial motor vehicles that are responding to a request for roadside
77 assistance, when such response is conducted by a motor club as defined in section 385.450 or
78 a towing company as defined in section 304.001;

79 (8) The use of an electronic communication device to relay information between a
80 transit or for-hire vehicle operator and that operator's dispatcher, provided the device is
81 mounted or affixed to the vehicle;

82 (9) The use of an electronic communication device to access or view a map for
83 navigational purposes;

84 (10) The use of an electronic communication device to access or listen to an audio
85 broadcast or digital audio recording; or

86 (11) The use of an electronic communication device to relay information through a
87 transportation network company's digital network to a transportation network company
88 driver, provided the device is mounted or affixed to the vehicle.

89 6. (1) Except as otherwise provided in this subsection, violation of this section shall
90 be an infraction. Penalties for violations of this section shall be as provided in this

91 subsection. Prior convictions shall be pleaded and proven in the same manner as required
92 under section 558.021.

93 (2) For a conviction under this section where there is no prior conviction under this
94 section within the preceding twenty-four months, the court shall impose a fine of up to one
95 hundred fifty dollars.

96 (3) For a conviction under this section where there is one prior conviction under this
97 section within the preceding twenty-four months, the court shall impose a fine of up to two
98 hundred fifty dollars.

99 (4) For a conviction under this section where there are two or more prior convictions
100 under this section in the preceding twenty-four months, the court shall impose a fine of up to
101 five hundred dollars.

102 (5) For a conviction under this section where the violation occurred in a work zone
103 when workers are present, as such terms are defined in section 304.580, or for a conviction
104 under this section where the violation occurred in an area designated as a school zone and
105 marked in any way that would alert a reasonably prudent operator to the presence of the
106 school zone, the court shall impose a fine of up to five hundred dollars.

107 (6) A violation of this section that is the proximate cause of damage to property in
108 excess of five thousand dollars shall be a class D misdemeanor.

109 (7) A violation of this section that is the proximate cause of serious physical injury to
110 another person shall be a class B misdemeanor.

111 (8) A violation of this section that is the proximate cause of the death of another
112 person shall be a class D felony.

113 (9) A violation of this section while operating a commercial motor vehicle shall be
114 deemed a serious traffic violation, as such term is defined in section 302.700, for purposes of
115 commercial driver's license disqualification under section 302.755.

116 7. A law enforcement officer who stops a noncommercial motor vehicle for a
117 violation of this section shall inform the operator of the operator's right to decline a search of
118 their electronic communication device. No warrant shall be issued to confiscate or access an
119 electronic communication device based on a violation of this section unless the violation
120 results in serious bodily injury or death.

121 8. A violation of this section shall not be used to establish probable cause for any
122 other violation.

123 9. The provisions of this section shall be subject to the reporting requirements set
124 forth in section 590.650.

125 10. ~~[The state preempts the field of regulating the use of electronic communication~~
126 ~~devices by the operators of commercial and noncommercial motor vehicles. The provisions~~
127 ~~of this section shall supercede any local laws, ordinances, orders, rules, or regulations enacted~~

128 ~~by a county, municipality, or other political subdivision to regulate the use of electronic~~
129 ~~communication devices by the operator of a commercial or noncommercial motor vehicle]~~
130 **The provisions of this section preempt any local law, ordinance, or regulation that**
131 **conflicts with this section. Notwithstanding any other provision of law, political**
132 **subdivisions of this state shall not enact or enforce any ordinance or other local law or**
133 **regulation that conflicts with or is preempted by this section.**

134 11. Prior to January 1, 2025, a law enforcement officer who stops a noncommercial
135 motor vehicle for a violation of this section shall not issue a citation for a violation of this
136 section and shall only issue a warning.

137 12. No person shall be stopped, inspected, or detained solely for a violation of this
138 section.

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